

CALAVERAS COUNTY

Audit Report

COURT REVENUES

July 1, 2003, through June 30, 2009



JOHN CHIANG
California State Controller

April 2011



JOHN CHIANG
California State Controller

April 29, 2011

The Honorable Rebecca Callen
Auditor/Controller
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

Mary Beth Todd
Court Executive Officer
Superior Court of California,
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

Dear Ms. Callen and Ms. Todd:

The State Controller's Office audited Calaveras County's court revenues for the period of July 1, 2003, through June 30, 2009.

Our audit disclosed that the county underremitted \$496,040 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of fines, fees, and penalties by \$466,982; and
- Underremitted state court facilities construction penalty by \$29,058.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2003, through June 30, 2009.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Mike Spalj, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250

Once the county has paid the underremitted Trial Court Improvement Fund and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts at the rate of 18% per annum and bill the county accordingly, in accordance with Government Code sections 68085, 70353, and 70377.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: Dan Urtis, Fiscal Manager
County of Calaveras
John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst's Office
Scott Taylor, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Calaveras County for the period of July 1, 2003, through June 30, 2009.

Our audit disclosed that the county underremitted \$496,040 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of fines, fees, and penalties by \$466,982; and
- Underremitted state court facilities construction penalty by \$29,058.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and to provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

Government Code section 68103 requires that the State Controller determine whether or not all court collections remitted to the State Treasurer are complete. Government Code section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, Government Code section 12410 provides the State Controller with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2003, through June 30, 2009. We did not review the timeliness of any remittances the county may be required to make under Government Code sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Probation Department, and Auditor/Controller's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county.

- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow.
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions.
- Evaluated the accuracy of revenue distribution using as criteria various California codes and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts.
- Tested for any incorrect distributions.
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Calaveras County underremitted \$496,040 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued October 28, 2004.

Views of Responsible Officials

We issued a draft audit report on February 18, 2011. Rebecca Callen, Auditor-Controller, responded by letter dated March 15, 2011 (Attachment A), agreeing with the audit results. Mary Beth Todd, Court Executive Officer, responded by letter dated March 15, 2011 (Attachment B), agreeing with the audit results.

Restricted Use

This report is solely for the information and use of Calaveras County, the Calaveras County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

April 29, 2011

**Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2003, through June 30, 2009**

Description	Account Title ¹	Code Section	Fiscal Year						Total	Reference ²
			2003-04	2004-05	2005-06	2006-07	2007-08	2008-09		
Underremitted 50% excess of qualified fines, fees, and penalties	AB233 MOE	GC§77205	\$ 68,939	\$ 80,095	\$ 87,797	\$ 92,884	\$ 83,157	\$ 54,110	\$ 466,982	Finding 1
Underremitted state court facility construction penalties from TVS bail	State Court Facility Construction Penalty	GC§70372	—	—	—	—	—	29,058	29,058	Finding 4
Net amount underpaid (overpaid) to the State Treasurer			<u>\$ 68,939</u>	<u>\$ 80,095</u>	<u>\$ 87,797</u>	<u>\$ 92,884</u>	<u>\$ 83,157</u>	<u>\$ 83,168</u>	<u>\$ 496,040</u>	

Legend: GC = Government Code

¹ The identification of state revenue account titles should be used to ensure proper recording when preparing the remittance advice (TC-31) to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2003, through June 30, 2009**

Month	Fiscal Year					
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—	—
September	—	—	—	—	—	—
October	—	—	—	—	—	—
November	—	—	—	—	—	—
December	—	—	—	—	—	—
January	—	—	—	—	—	—
February	—	—	—	—	—	—
March	—	—	—	—	—	—
April	—	—	—	—	—	—
May	—	—	—	—	—	—
June	68,939	80,095	87,797	92,884	83,157	54,110
Total	<u>\$ 68,939</u>	<u>\$ 80,095</u>	<u>\$ 87,797</u>	<u>\$ 92,884</u>	<u>\$ 83,157</u>	<u>\$ 54,110</u>

NOTE: Delinquent Trial Court Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Schedule 3—
Summary of Underremittances by Month
State Court Facilities Construction Fund
July 1, 2003, through June 30, 2009**

Month	Fiscal Year					
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 3,477
August	—	—	—	—	—	2,831
September	—	—	—	—	—	3,059
October	—	—	—	—	—	2,836
November	—	—	—	—	—	3,016
December	—	—	—	—	—	2,377
January	—	—	—	—	—	2,246
February	—	—	—	—	—	1,910
March	—	—	—	—	—	2,243
April	—	—	—	—	—	1,902
May	—	—	—	—	—	1,730
June ¹	—	—	—	—	—	1,431
Total	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 29,058</u>

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 70377. The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

Findings and Recommendations

FINDING 1— Underremitted excess of qualified fines, fees, and penalties

The County Auditor/Controller's Office underremitted by \$466,982 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six-fiscal-year (FY) period starting July 1, 2003, and ending June 30, 2009.

Government Code (GC) section 77201(b)(2) requires Calaveras County, for its base revenue obligation, to remit \$310,331 for FY 2003-04 and each fiscal year thereafter. In addition, GC section 77205(a) requires the county to remit to the Trial Court Improvement Fund 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred because the county used incorrect entries in its maintenance-of-effort (MOE) distribution working papers and as a result of conditions identified as follows:

- For all six fiscal years, the county did not include within the MOE computation of all the vehicle traffic base fines. A total of 934,311 should have been included in the MOE.
- For all six fiscal years, the court did not appropriately distribute \$1 to the Jail Facility Fund, and for FY 2003-04 through FY 2007-08, the court did not distribute \$1 to the Court Construction Fund from the county's 23% portion. Instead, the \$1 was taken out of the total traffic violator school (TVS) bail. Therefore, 77% of the TVS bail applicable to the MOE included this amount. A total of \$22,030 ($\$28,611 \times .77$) should have been included in the MOE.
- As stated in Finding 3, from July 2008 through June 2009, the component calculation for state court facility construction penalties from TVS bail was not adjusted from \$1 to \$5. Therefore, 77% of the TVS bail applicable to the MOE included this amount. A total of \$22,375 ($\$29,058 \times .77$) should not have been included in the MOE.

The qualified revenues reported for FY 2003-04 were \$573,032. The excess, above the base of \$310,331, is \$262,701. This amount should be divided equally between the county and the State, resulting in \$131,350 excess due the State. The county has remitted a previous payment of \$62,411, causing an underremittance of \$68,939.

The qualified revenues reported for FY 2004-05 were \$644,019. The excess, above the base of \$310,331, is \$333,688. This amount should be divided equally between the county and the State, resulting in \$166,844 excess due the State. The county has remitted a previous payment of \$86,749, causing an underremittance of \$80,095.

The qualified revenues reported for FY 2005-06 were \$743,395. The excess, above the base of \$310,331, is \$433,064. This amount should be divided equally between the county and the State, resulting in \$216,532 excess due the State. The county has remitted a previous payment of \$128,735, causing an underremittance of \$87,797.

The qualified revenues reported for FY 2006-07 were \$786,273. The excess, above the base of \$310,331, is \$475,942. This amount should be divided equally between the county and the State, resulting in \$237,971 excess due the State. The county has remitted a previous payment of \$145,087, causing an underremittance of \$92,884.

The qualified revenues reported for FY 2007-08 were \$714,936. The excess, above the base of \$310,331, is \$404,605. This amount should be divided equally between the county and the State, resulting in \$202,302 excess due the State. The county has remitted a previous payment of \$119,145, causing an underremittance of \$83,157.

The qualified revenues reported for FY 2008-09 were \$463,059. The excess, above the base of \$310,331, is \$152,728. This amount should be divided equally between the county and the State, resulting in \$76,364 excess due the State. The county has remitted a previous payment of \$22,254, causing an underremittance of \$54,110.

The underremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC section 77205:	
FY 2003-04	\$ 68,939
FY 2004-05	80,095
FY 2005-06	87,797
FY 2006-07	92,884
FY 2007-08	83,157
FY 2008-09	54,110
County General Fund	(466,982)

Recommendation

The county should remit \$466,982 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–GC section 77205. The county should also make the corresponding account adjustments.

County's and Court's Responses

The county and court agree with the finding.

**FINDING 2—
Underreported county
and state penalties by
the Probation
Department**

The Calaveras County Probation Department did not include county and state penalties when levying juvenile fines throughout the audit period. In addition, from July 2008 through June 2009, the department did not reduce county penalties from \$7 of every \$10 base fine to \$3 of every \$10 base fine. County personnel indicated that the required distribution was inadvertently overlooked.

Welfare and Institutions Code (W&IC) section 258 was revised effective January 1, 1992, to levy juvenile fines in the same manner as those of adults up to \$250. Juvenile fines are distributed the same way as those of adults pursuant to Penal Code (PC) section 1463, with applicable penalties.

On June 30, 2008, at fiscal year end, following the complete transfer of court facilities and pay-off of bonded indebtedness, GC section 76000(e) required Calaveras County to receive a \$3 penalty (\$2.50 to the County Jail Facility Fund and \$.50 to the County Fingerprint Fund) and the State Court Facility Construction Penalty Fund to receive a \$5 penalty. A transfer agreement was entered into on August 27, 2007.

The inappropriate distributions base fines and penalties affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. We did not measure the dollar effect between the county and State as it did not appear to be material and doing so would not be cost effective due to the difficulty inherent in identifying and redistributing the various accounts.

Recommendation

The county should implement procedures to improve its output records in order to adequately provide an accurate distribution of base fines and penalties and comply with statutory requirements.

County's Response

The county agrees with the finding.

**FINDING 3—
Inappropriate
distribution of fines
from formal probation
driving-under-the-
influence (DUI)
violations**

The Probation Department did not make the required fine distributions for the county alcohol program, alcohol laboratory, and state indemnity restitution fines from July 2006 through June 2009. County personnel indicated that during the process of installing a new software distribution system, the required distribution was inadvertently overlooked.

PC section 1203.1 requires the subsequent distribution of fines pursuant to PC sections 1463.16(a) (county's alcohol program), 1463.14(a) (county's alcohol laboratory), and 1463.18 (state restitution). In addition, county and state penalties should be applied to the fine components.

The inappropriate distribution of base fines and penalties affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. We did not measure the dollar effect between the county and state as it did not appear to be material and doing so would not be cost effective due to the difficulty inherent in identifying and redistributing the various accounts.

Recommendation

The county should implement procedures to improve its output records in order to adequately provide an accurate distribution of base fines and penalties and comply with statutory requirements.

County's and Court's Responses

The county and court agree with the finding.

**FINDING 4—
Underremitted state
court facilities
construction penalty
from traffic violator
school bail**

The Calaveras County Superior Court did not deduct a complete \$5 component of state court facilities construction penalties from traffic violator school (TVS) fees from July 2008 through June 2009. Court personnel indicated that the required distribution was incorrectly calculated through the court's case management system.

Effective January 1, 2004, for all traffic school violations, Vehicle Code section 42007 requires courts to include a penalty that would have been collected pursuant to GC section 70372(a) on a fine distribution to be deposited in the State Court Facilities Construction Fund.

On June 30, 2008, at fiscal year end, following the complete transfer of court facilities and pay-off of bonded indebtedness, GC section 76000(e) required Calaveras County to receive a \$3 penalty and the State Court Facility Construction Penalty Fund to receive a \$5 penalty. A transfer agreement was entered into on August 27, 2007.

The inequitable distributions for TVS fees affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. In addition, the inequitable distribution had the following effect:

Account Title	Understated/ (Overstated)
State Court Facilities Construction Penalty	\$ 29,058
County General Fund	(29,058)

Recommendation

The county should remit to the State Treasurer and report on the remittance advice form (TC-31) an increase of \$29,058 to the State Court Facilities Construction Fund—GC section 70372(a). The county should also make the corresponding account adjustments.

The Superior Court should prepare a redistribution adjustment for state court facilities construction penalties starting July 2009 through the date on which the current system is revised.

Court's Response

The court agrees with the finding.

**Attachment A—
County Auditor-Controller's Response
to Draft Audit Report**



COUNTY OF CALAVERAS

Office of AUDITOR-CONTROLLER

Rebecca Callen
Auditor-Controller

3/15/2011

Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

Re: Court Revenues Audit – Calaveras County

Dear Mr. Mar:

The Auditor Controller's office is in receipt of the draft audit report prepared by your office after the audit of Calaveras County's court revenues for the period July 1, 2003 through June 30, 2009.

This office has reviewed the draft report and finds that the draft is accurate related to the court distributions and under-remitted amounts.

Please forward a copy of the report to our office once final.

If you have any questions, please do not hesitate to contact me at (209)754-6343

Sincerely,

Rebecca Callen
Auditor-Controller

Cc: Dan Vrtis, Fiscal Manager
M.B. Todd, Court Executive Officer

Government Center
891 Mountain Ranch Rd.
San Andreas, CA 95249
(209) 754-6343

**Attachment B—
Court's Response to
Draft Audit Report**



Superior Court of California County of Calaveras

Government Center
891 Mountain Ranch Road
San Andreas, CA 95249
(209) 754-6141 Voice (209) 754-6295 Fax
www.calaveras.courts.ca.gov

Douglas V. Mewhinney
Presiding Judge

John E. Martin
Judge

M.B. Todd
Court Executive Officer

Grant V. Barrett
Commissioner

March 15, 2011

Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

Re: Court Revenues Audit – Calaveras County

Dear Mr. Mar:

The court is in receipt of draft audit report prepared by your office after an audit of Calaveras County's court revenues for the period of July 1, 2003 through June 30, 2009.

The court has reviewed the draft report and finds references in the report related to court distributions and actions are accurate and has no further comments.

Please forward a copy of the report to our office once final.

Sincerely,

M.B. Todd
Court Executive Officer

cc: Dan Vrtis, Fiscal Manager
Rebecca Callen, Auditor-Controller

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>